

Union Leader

Pam: If I Was Guilty, I Would Have Plea-Bargained Like Rest of Them

Defense Rests; Closing Arguments Today

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EXETER — Pamela Smart remained composed and unemotional yesterday, again admitting only to having an affair with her husband's killer and steadfastly maintaining she had no involvement in his murder.

"If I was guilty, I would have pled guilty and plea-bargained like the rest of them," Smart, 23, replied to a question posed by Paul Maggiotto, a New Hampshire assistant attorney general.

Three witnesses later, the defense rested.

Final arguments, in which prosecutors and defense attorneys summarize

the case in attempt to focus jurors on what they believe are key points to support a conviction or acquittal, are scheduled for 10 a.m. today.

Yesterday, Smart admitted she lied to police as they investigated the May 1 shooting death of her husband, Gregory Smart, 24, in their Derry condominium. Smart said she lied to hide her affair with William Flynn of Seabrook, who has pleaded guilty to shooting Gregory Smart in the head.

Flynn is 17; his birthday was March 12.

Flynn's confessed accomplices, Patrick "Pete" Randall and Vance Lattime Jr., also pleaded guilty in exchange for lesser sentences.

The three face minimum prison sentences of 18 to 28 years in exchange

for testifying against Smart, charged with being an accomplice to murder and conspiracy to commit murder.

Prosecutors charge that Smart, media director for SAU 21 in Hampton, plotted and helped carry out the murder of her husband. They maintain Smart manipulated her lover, Flynn, to kill the young insurance salesman. Prosecutors allege Smart feared she'd lose everything in a divorce.

The defense, however, contends the three Seabrook teenagers murdered Smart on their own and then framed his widow to avoid life sentences.

Continuing his cross-examination of Smart yesterday, Maggiotto pressed her about the affair with Flynn,

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PAMELA SMART answers a question from Assistant Attorney General Paul Maggiotto during pointed cross-examination yesterday in Rockingham County Superior Court.

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whether it would have come out in a divorce and what effect it would have on her employment with the SAU 21 in Hampton.

Smart said she assumed she would lose her job and that her family and friends wouldn't approve.

"I'm not the first person in America who ever had an affair," she added.

Maggiotto asked if her husband were dead, would the affair ever have been divulged and Smart replied, "No, not unless this happened."

At another point in his cross-examination, Maggiotto questioned whether hiding her affair was more important than finding her husband's killer.

"I wanted to solve this in my own mind, in my own life first," Smart replied.

"What were you going to do, make a citizen's arrest?" Maggiotto asked.

Maggiotto continued, as he did on Monday, questioning Smart about what he called "incriminating statements" she made to Cecelia Pierce and which were secretly recorded by Derry police.

Smart again said she was

pretending to know more about the murder in order to elicit information from Pierce because police had refused to tell her anything about her husband's death.

Maggiotto suggested that Smart, instead, was attempting to "make sure Cecelia Pierce did not go to police" at which point Smart interrupted him saying, "and to get information."

Questioned about her comments on the tape that the teenagers made the decision to murder Gregg (his family's spelling of his nickname), Smart said, "I didn't force anybody to murder Gregg. They made their own decisions. They're the ones who brought him to his knees and held a knife to his throat."

Smart also said she believes Pierce had her own agenda in cooperating with police, was involved in procuring a firearm with Flynn and therefore was going to protect herself.

"She came in with this entire fabrication just to get you in trouble, to wrongly send you to jail, to wrongly accuse you of murder, to falsely accuse you of everything, to match her wits against yours because she tried

to get a firearm at Papa Gino's?" Maggiotto asked.

Later, Smart testified that on June 13, the second face-to-face conversation with Pierce which was secretly taped by police, she had heard rumors she was going to be arrested, was afraid, had taken Prozac (an anti-depressant) and was hysterical.

"I was in a state of hysteria and desperation and I think my voice on the tapes lends to that," she said.

Also testifying for the defense yesterday was Brian Washburn of Londonderry, who said he was Gregory Smart's best friend.

He said about April 14, when he and Gregg were in Atlantic City, N.J., Gregory Smart confided that he had cheated on Pam with a woman Washburn didn't know. Gregory Smart, Washburn said, told Pamela about the brief fling. Pam, Washburn said Gregory Smart told him, always brought it up whenever they argued.

But, Washburn testified, Gregory Smart said that that was going to end soon since Pamela

had done the same thing.

Washburn also testified, under direct examination, that the evening of July 10 or July 13 — the day of the secret police taping — Pamela Smart said she was going to pretend she knew something about the murder to Cecelia Pierce to obtain more information.

"I told her not to be an idiot but I used a different word," he said.

Under cross-examination by prosecutor Diane Nicolosi, Washburn said he contacted Derry police as well as Smart's attorneys on the same day to tell them what he knew. He met with defense attorneys, he said, because they were willing to meet with him that day and police were unavailable.

Washburn said he only told police about the affairs two weeks ago, after the trial had

already started. He tried to give the police hints about the affairs, he said, because he didn't want to become involved and because he had promised his best friend not to reveal it.

Nicolosi, however, elicited from Washburn that he only went to police after the trial began and his admission had hired an attorney to handle contract offers for the rights to his story. One interested party had sent him a \$2,000 check in the mail, he testified.

"So, it's okay to enter a contract and make money off the death of your best friend?" asked Nicolosi.

"Everybody else is," Washburn responded at first. Later, he said, "No, it's not okay."

A spokesman for CBS confirmed that a two-hour made-for-TV movie about the Smart case is in development. A Los

Angeles producer told The Union Leader that a two-hour movie generally takes from eight to nine months to complete, from concept to production. Murder trials, preferably with a female lead, are selling like hotcakes now, the producer said.

The New Hampshire State Police emptied the courtroom early yesterday and, using a bomb-sniffing dog, searched the court and several other areas. Rockingham County Sheriff Wayne Vetter said there hadn't been a telephoned bomb threat, but police "were acting on information we received."

As for the fire alarm that cut short Monday's session, Vetter said no cause had yet been determined. However, the alarm that sounded last week was activated by an unnamed judge smoking under a smoke detector, he said.